

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B04

PLR-144443-06

Date:

January 24, 2007

Foreign Parent =
Foreign Subsidiary 1 =
Foreign Subsidiary 2 =
Domestic Parent 1 =
Domestic Parent 2 =
Country 1 =
Country 2 =
State 1 =
State 2 =
Date 1 =
Date 2 =
Accounting Firm =
Individual A =
Individual B =

Dear :

This replies to a letter dated September 14, 2006, in which Taxpayers (Foreign Subsidiary 2, Domestic Parent 1, and Domestic Parent 2) request a ruling under Treas. Reg. § 301.9100-3 for an extension of time to satisfy the statement, notice and withholding requirements of Treas. Reg. § 1.897-2(g), § 1.897-2(h) and § 1.1445-2(c)(3) with respect to the transfers that occurred on Date 2. The information submitted is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in

support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Foreign Parent is a closely held Country 1 company. It holds all the stock of Foreign Subsidiary 1, a Country 1 company. Prior to the reorganization, which is the subject of this ruling, Foreign Subsidiary 1 held all the stock of Foreign Subsidiary 2, a Country 2 entity. Foreign Subsidiary 2 held all the stock of Domestic Parent 1, a State 1 corporation. Domestic Parent 1 was the common parent of a domestic affiliated group that files a consolidated return for U.S. federal income tax purposes. Taxpayers represent that shares of Domestic Parent 1 are not U.S. real property interests.

Taxpayers engaged in the following series of transactions. On Date 1, Domestic Parent 2, a State 1 corporation, was formed. On Date 2, the following transactions occurred. Domestic Parent 2 issued all its outstanding shares to Foreign Subsidiary 1. Foreign Subsidiary 2 then transferred all the shares of Domestic Parent 1 to Foreign Subsidiary 1. Foreign Subsidiary 2 then liquidated under Country 2 law, and Foreign Subsidiary 1 transferred the shares of Domestic Parent 1 to Domestic Parent 2. Taxpayers represent that shares of Domestic Parent 2 are not U.S. real property interests.

For federal tax purposes, the above transactions are characterized as a reorganization under section 368(a)(1)(F). Accordingly, for federal tax purposes, Foreign Subsidiary 2 is treated as if it transferred the shares of Domestic Parent 1 to Domestic Parent 2, in exchange for the shares of Domestic Parent 2. Foreign Subsidiary 2 is then treated as if it distributed the shares of Domestic Parent 2 to Foreign Subsidiary 1, Foreign Subsidiary 2's shareholder, in exchange for the shares of Foreign Subsidiary 2 held by Foreign Subsidiary 1. See Treas. Reg. § 1.367(b)-2(f)(2). Foreign Subsidiary 2 did not request, and therefore did not receive statements from Domestic Parent 1 and Domestic Parent 2 that the shares of Domestic Parent 1 and Domestic Parent 2 were not U.S. real property interests as of the date of the transfer or distribution of those shares. In addition, the notices required under Treas. Reg. § 1.897-2(h)(2) were not filed.

Individual A was an officer of Domestic Parent 1 and Domestic Parent 2 at the time of the reorganization. Individual B was a director in the State 2 office of Accounting Firm. According to each of their affidavits there was a misunderstanding as to who would do the required filings under FIRPTA; each believed that the other would do the filing. Consequently, the statements were not requested or received and the notices under Treas. Reg. § 1.897-2(h) were not filed.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith within the meaning of Treas. Reg. § 301.9100-3(b), subject to the conditions set forth in Treas. Reg. § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of Treas. Reg. § 301.9100-3(c).

In the present situation, the Notice falls within the definition of a regulatory election. Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and representations submitted, we conclude that Taxpayers satisfy Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayers are granted an extension of time of 60 days from the date of this letter ruling to satisfy the statement, notice, and withholding requirements of Treas. Reg. §§ 1.897-2(g), 1.897-2(h), and 1.1445-2(c)(3) with respect to the transactions which occurred on Date 2.

The granting of an extension of time is not a determination that Taxpayers are otherwise eligible to comply with the statement and notice requirements. Treas. Reg. § 301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Mae J. Lew
Special Counsel
(International)